IXC

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Federal Communications Commission
Office of Secretary

January 29, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

BY HAND

Re: CC Docket No. 96-262 -- Comments of IXC Long Distance, Inc.

Dear Mr. Caton:

On behalf of IXC Long Distance, Inc. ("IXCLD"), enclosed please find an original and sixteen (16) copies of IXCLD's Comments in the above-referenced matter. Two (2) copies of IXCLD's Comments are also being filed with the Commission's Competitive Pricing Division. Finally, a diskette with IXCLD's Comments in WordPerfect 5.1 is enclosed.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Gary L. Mann /KEM

Gary L. Mann

Enclosures
cc: Competitive Pricing Division

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	CC Docket No. 96-263
	)	

COMMENTS OF IXC LONG DISTANCE, INC.
ON NOTICE OF PROPOSED RULEMAKING

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COMMENTS OF IXC LONG DISTANCE, INC.
ON NOTICE OF PROPOSED RULEMAKING

I. Introduction and Summary

IXC Long Distance, Inc. (IXCLD) is a non-dominant interexchange long distance service provider. IXCLD currently provides service in the 48 contiguous continental United States as well as internationally. Since access charge payments to local exchange carriers ("LECs") represent IXCLD's single largest operating expense, IXCLD will be directly impacted by the outcome of this important proceeding.

In responding to the Commission's Notice of Proposed Rulemaking ("NPRM"), IXCLD wishes to make three points. First, access charges should be based on TELRIC-determined costs. Second, the Commission should adopt and follow a prescriptive approach to access charges until such time as meaningful local exchange competition exists so as to enable interexchange carriers to avail themselves of competitively supplied forms of local exchange access at prices reflecting the operation of competitive market forces. Third, since the access charge structure that is being replaced has -- among other things -- recovered non-traffic sensitive costs on a traffic sensitive basis, incumbent local exchange carriers ("ILECs") historically have been overcompensated and have been the recipients of windfall revenues. Therefore, in replacing the current access charge structure with a cost-based structure, there is no legitimate basis for imposing a "revenue neutral" requirement. Indeed, to do so would subvert the very purpose of cost-based access charges.

II. Rate Structure Modifications (NPRM §III)

In considering access charge rate structure modifications, the Commission should focus first on which costing methodology is most consistent with establishing access charge rates that are truly cost-based. IXCLD submits that TELRIC is the appropriate costing methodology because -- as the Commission has recognized -- it directly attributes to a facility, such as a loop or switch, all the costs that a particular facility causes regardless of the services that the particular facility provides.[1] As a result,

[1]See NPRM ¶221. Even though TELRIC is not a pure marginal costing methodology, it is the form of incremental or marginal costing that has gained acceptance by the Commission and various state commissions as well.

any forward-looking common costs that an ILEC might need to recover over and beyond the TELRIC of that particular facility will be lower than the forward-looking common costs needed to be recovered for a service. Accordingly, use of TELRIC should result in access charge service rates that are much closer to the forward looking costs of providing access services.

III. Prescriptive Approach to Access Reform (NPRM §VI)

Until such time as a truly competitive local exchange market exists -- one which will be characterized by multiple sources of local exchange access -- it would be folly for the Commission to follow any approach to access charge reform other than a prescriptive one with mandatory rate reductions on a specific schedule. Absent a Commission prescribed shift to cost-based access charge rates, the ILECs will not change their mode of operation. This is obvious considering the evolution of the industry. It was not until the Commission's landmark decision in the Carterfone case that other suppliers were permitted even to begin connecting their own customer provided equipment to the Bell network.[2] After six years of legal haggling, MCI was finally

[2] Carterfone, 13 F.C.C. 2d 420, *recon. denied,* 14 F.C.C. 2d 571 (1968).

allowed to provide private line channels between St. Louis and Chicago.[3] This began a series of proceedings leading to the ultimate break-up of the Bell System.[4]

For over 30 years the RBOCs and the independent local exchange carriers have continued to fight competitive entry into their domains. This is not going to change in the immediate future. In fact, U.S. West, Southwestern Bell and GTE recently have initiated legal proceedings against state public service commissions in an attempt to nullify state commission ordered local exchange interconnection actions. Thus, there is absolutely no sound basis upon which this Commission can now reasonably conclude that a market approach to access charges would work.[5] Rather, a prescriptive approach is clearly necessary until such time as meaningful local exchange competition has developed. Moreover, the burden of proof to establish the existence of a competitive local exchange market should be placed squarely on the ILECs. Then and only then, after the existence of a truly competitive local exchange market has been empirically proven, should access charges be market-based.

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[3] Microwave Communications, Inc., 18 F.C.C. 2d 953, 966 (1969), *recon. denied*, 21 F.C.C. 2d 190 (1970).

[4] United States v. AT&T, 552 F.Supp. 131 (D.C.D.C. 1982).

[5] In the absence of a fully competitive local exchange market, the "greater pricing flexibility" offered to the ILECs under the proposed market-based approach provides no incentive whatsoever for the ILECs to align access rates with costs.

IV. Transition Issues -- Revenue Neutrality (NPRM §VII.B)

The Commission's NPRM notes that there is a significant difference in revenues generated by access charges based on embedded cost and the revenues that would be generated by access rates based on forward looking economic costs such as TELRIC. The Commission has invited comments on whether the ILECs should be allowed to recover the difference. IXC submits that there is no legitimate basis for allowing such an additional recovery.

As the Commission is well aware, under the current access charge structure, ILECs have recovered non-traffic sensitive costs on a traffic sensitive basis, thereby generating substantial windfalls. Moreover, rates assessed for the Transport Interconnection Charge ("TIC") and its predecessor, the Residual Interconnection Charge ("RIC"), have been based on an essentially arbitrary allocation which includes a monopoly profit element. Thus, a substantial portion of the revenue difference between embedded cost access charge rates and access charge rates based on TELRIC is attributable to arbitrary cost allocation methodologies that produced windfall revenues for the ILECs. In short, keeping access revenues at their current level would be totally antithetical to achieving competition and cost-based access charges.

In considering this issue, the Commission should also be mindful that the ILECs will have available to them at least two other sources of potential revenue that will serve to offset whatever shortfall may result from the transition to cost-based access charges. The universal service fund will be a source of revenue for those ILECs that qualify. Further, sight must not be lost of the fact that many ILECs have already begun to realize revenues from provision of long distance services, whether out-of-region in the case of the RBOCs or in-region and out-of-region in the case of GTE. IXCLD is not suggesting here that long distance revenues should be used to cross subsidize, but only that the ILECs have begun to realize new revenues from the provision of long distance service. Moreover, these revenues are bound to continue to increase, especially at such time as the RBOCs are allowed to provide in-region long distance. The ILECs cannot seriously argue that their overall revenue prospects are so bleak as to require some form of misguided special dispensation intended to achieve "revenue neutrality" or to recover "stranded investment."

V. Conclusion

For the reasons stated above, IXCLD urges the Commission: (1) to require use of TELRIC in establishing interstate access charges; (2) to adopt and follow a prescriptive approach to access charge reform until such time as the ILECs can empirically demonstrate the existence of a truly competitive local exchange market; and (3) not to adopt a "revenue neutral" approach to access reform.

Respectfully submitted,

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